

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of  
Northern States Power Company d/b/a  
Xcel Energy for Certificates of Need for  
Four Large High Voltage Transmission  
Line Projects in Southwestern Minnesota

**FIRST PREHEARING ORDER**

A prehearing conference was held before Beverly Jones Heydinger, Administrative Law Judge, on March 1, 2002 at the Public Utilities Commission, 121 Seventh Place East, St. Paul, Minnesota.

Michael C. Krikava, Briggs and Morgan, P.A., 2400 IDS Center, 80 S. 8<sup>th</sup> St., Minneapolis, MN 55402, appeared on behalf of the Applicant, Northern States Power Company d/b/a Xcel Energy. Julia E. Anderson, Assistant Attorney General, 525 Park St., Suite 200, St. Paul, MN 55103, appeared on behalf of the Department of Commerce. Dwight S. Wagenius, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, MN 55101-7345, appeared on behalf of the Minnesota Environmental Quality Board Staff. Laura and John Reinhardt, 3552 26<sup>th</sup> Avenue South, Minneapolis, MN 55406, appeared on their own behalf. George Crocker, P. O. Box 174, Lake Elmo, MN 55042, appeared on behalf of the North American Water Office. James S. Alexander, Assistant Attorney General, 445 Minnesota St., Suite 1100, St. Paul, MN 55101, appeared on behalf of the Public Utilities Commission. Also present was David Jacobson, staff member, Public Utilities Commission, Suite 350, 121 Seventh Place East, St. Paul, MN 55101-2147.

Discussion was held among the participants, including several other persons who will be filing petitions to intervene. Having considered all of the comments, and with due regard for the statutory timeline,<sup>[1]</sup> the Administrative Law Judge makes the following Prehearing Order.

**I. Intervention**

A Motion to Intervene was filed by the Izaak Walton League on February 15, 2002. No objection to the Motion has been filed, nor was any objection made at the Prehearing Conference. The Motion is granted. A Notice of Appearance shall be filed promptly.

There was no objection to the request of the North American Water Office to participate as a party. Its request is granted. A Notice of Appearance has been filed by George Crocker.

Additional interests were represented at the prehearing conference, but no additional petitions to intervene or notices of appearance have been filed as of March 5, 2002.

Members of the public need not become formal parties to participate in the hearing. Members of the public may offer either oral or written testimony, and they may offer exhibits for inclusion in the record. But any person desiring to become a formal party must file a petition to intervene.

Persons who wish to intervene in this proceeding are requested to file a written petition to intervene with the Administrative Law Judge no later than March 8, 2002, as set forth in Minn. R. 1400.6200. Any objections to the petitions shall be filed by March 13, 2002. The petition shall be served upon all existing parties and the Commission. Although interventions will be allowed after that date, this deadline will be used to establish the initial master service list. A Notice of Appearance shall be filed with the Petition.

The deadline to file a petition to intervene is April 26, 2002. This deadline shall be included in the published notice of public hearing.

## **II. Motion for Consolidation**

Mr. and Mrs. Reinhardt have filed a Motion to Consolidate this proceeding with a proceeding that may be conducted by the Environmental Quality Board. This issue was disposed of by the Public Utilities Commission in its February 11, 2002 Order for Hearing and will not be reconsidered here. Their Motion is denied.

## **III. Prehearing Conference**

A prehearing conference shall be held on May 1, 2002 to establish the order of witness testimony, to mark exhibits for the hearing, and to address any other matters that can be resolved prior to hearing.

## **III. Hearing Schedule**

A combined public and evidentiary hearing will be held as follows:

May 6, 2002, Worthington, Minnesota, beginning at 12:30 p.m., with time reserved for public testimony at 4:00 and 7:00 p.m.

May 7, 2002, Worthington, Minnesota, beginning at 9:30 a.m.

May 8, 2002, Pipestone, Minnesota, beginning at 12:30 p.m., with time reserved for public testimony at 4:00 and 7:00 p.m.

May 9, 2002, Redwood Falls, Minnesota, beginning at 12:30 p.m., with time reserved for public testimony at 4:00 and 7:00 p.m. The hearing will continue on May 10, 2002, at 9:30 a.m. in Redwood Falls, if necessary to complete the public testimony.

May 13, 2002, Saint Paul, Minnesota, beginning at 9:30 a.m.

May 14, 2002, Saint Paul, Minnesota, beginning at 12:30 p.m., with time reserved for public testimony at 4:00 and 7:00 p.m. Additional time may be scheduled for public testimony, if necessary.

May 15, 2002, Saint Paul, Minnesota, beginning at 9:30 a.m. and continuing on May 16, 17, 20 and 21, 2002, as necessary to complete the evidentiary hearing.

The locations for the hearings will be determined by the staff of the Public Utilities Commission in consultation with the Administrative Law Judge and will be included in the published notice of public hearing. Members of the public shall be given preference to speak at each location at the times designated for public testimony. When all members of the public have spoken, evidence will be taken from the parties.

#### **IV. Publication of Hearing Schedule**

Notice of the hearings shall be published in newspapers of general circulation throughout the state, as required by Minn. R. 7829.2500, subd. 5, and additional local newspapers, no later than April 15, 2002. See also, Order Accepting Application As Substantially Complete and Notice and Order for Hearing, paragraph 6, February 11, 2002.

#### **V. Supplement to the Environmental Report**

Xcel Energy has agreed to file a supplement to the Environmental Report. The supplement shall be filed by March 25, 2002.

#### **VI. Discovery**

All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request provided to all parties of record. The responding party shall provide the information to the requesting party within eight business days of receipt. Although the information need not be supplied to all other parties, it is encouraged. It is not necessary to file copies of the request or the information with the Administrative Law Judge. In the event the information cannot be supplied within eight business days, the responding party shall notify the requesting party in writing within five days of the request of the reason(s) it can not provide the information, and the two parties shall work out a schedule for compliance. Requests and responses may be sent by facsimile transmission or electronic mail, with the assent of the recipient. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party.

The last day to request information is April 1, 2002.

## **VII. Prefiled Testimony**

All parties must file direct testimony by April 11, 2002. The Applicant may rely upon its application, supplemented by a statement as to the witnesses available as sponsors of each section of testimony. The parties must file rebuttal testimony by April 25, 2002. Any party who petitions to intervene after April 11, but prior to the deadline of April 26, 2002, shall file their direct testimony no later than the commencement of the hearing on May 6, 2002.

Prefiled testimony will be marked as an exhibit and offered for admission into the record at the hearing. Prefiled testimony that is amended, or not offered into the record, shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony and exhibits. Except for good cause shown, all revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than five days prior to the commencement of the hearing.

## **VIII. Order of Testimony and Marking of Exhibits**

The order of testimony shall be determined at a prehearing conference to be held on May 1, 2002, at 1:30 p.m. at the Public Utilities Commission offices. If a witness needs a day certain to offer testimony, the sponsoring party should submit to the Administrative Law Judge and other parties a request at the prehearing conference for testimony on a day certain. The order of testimony is subject to change to accommodate public testimony.

At the prehearing conference, the hearing exhibits will be marked for identification, to the extent possible. Copies shall be available for all parties of record.

## **IX. Examination of Witnesses**

Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

## **X. Proposed Post-Hearing Schedule**

The schedule following the hearing is tentatively set as follows, subject to amendment at the close of the hearing.

Comments on Draft Environmental Report – May 28, 2002  
Final Environmental Report – June 4, 2002  
Post-hearing Briefs – June 18, 2002  
Reply Briefs – July 2, 2002

## **XI. Filing of Documents**

All documents, including Prefiled Testimony but excluding information requests and responses, shall be filed as follows:

- A. The original and one copy shall be filed with the Administrative Law Judge.
- B. Twelve (12) copies of each document shall be filed with the Public Utilities Commission's Secretary for distribution among Commissioners and Commission staff by delivering or mailing to:

Burl Haar, Executive Secretary  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, MN 55101-2147

- C. One (1) copy shall be served on the attorney for each party of record or, if there is no attorney, upon the party, except that two (2) copies shall be served on counsel for the Environmental Quality Board.

Four (4) copies shall be served personally or by mail on:

Kathy Aslakson  
Minnesota Department of Commerce  
85 Seventh Place East, Suite 500  
St. Paul, MN 55101

- D. Service and filing of documents is otherwise governed by Minn. R. 1400.5550.

A service list is attached hereto as Exhibit A and made a part hereof. Service of documents in the numbers required by this Prehearing Order shall be made according to the service list. This list will be amended as necessary to reflect the addition of parties. Corrections should be brought to the attention of the administrative law judge as soon as practicable.

## **XII. Court Reporter**

The Office of Administrative Hearings will arrange to have a court reporter present at the hearing. Parties must make arrangements with the Court Reporter to obtain a copy of the transcript.

## **XIII. Request for Accommodation**

No person has requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly if either an accommodation or interpreter is needed.

#### **XIV. Subpoenas**

Requests of subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the administrative law judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at [www.oah.state.mn.us](http://www.oah.state.mn.us).

Dated this 6<sup>th</sup> day of March, 2002.

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BEVERLY JONES HEYDINGER  
Administrative Law Judge

## EXHIBIT A

Service List as of March 1, 2002

Julia E. Anderson  
Assistant Attorney General  
525 Park Street, Suite 200  
St. Paul, MN 55103

Kathy Aslakson (4 copies)  
Minnesota Department of Commerce  
85 Seventh Place East, Suite 500  
St. Paul, MN 55101

George Crocker  
P.O. Box 174  
Lake Elmo, MN 55042

Burl Haar, Executive Secretary (12 copies)  
Minnesota Public Utilities Commission  
121 Seventh Place East, Suite 350  
St. Paul, MN 55101-2147

Beverly Jones Heydinger (2 copies)  
Office of Administrative Hearings  
100 Washington Square, Suite 1700  
100 Washington Avenue South  
Minneapolis, MN 55401-2138

Michael C. Krikava  
Briggs & Morgan, P.A.  
2400 IDS Center  
80 South 8<sup>th</sup> Street  
Minneapolis, MN 55402

Laura and John Reinhardt  
3552 26<sup>th</sup> Avenue South  
Minneapolis, MN 55406

Dwight S. Wagenius (2 copies)  
Assistant Attorney General  
445 Minnesota Street, Suite 900  
St. Paul, MN 55101-7345

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<sup>[1]</sup> Minn. Stat. § 216B.243, subd. 4 (2000).